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C O N F I D E N T I A L SECTION 01 OF 03 GUANGZHOU 000357

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E.O. 12958: DECL: 03/19/32

TAGS: [ELAB](#) [PHUM](#) [PGOV](#) [SOCI](#) [CH](#)

SUBJECT: South China Migrant Worker NGO - Compensation,
Legal Aid, and Labor Rights Education

Classified by Acting Consul General Jeff Rock for Reasons
1.4 (b) and (d).

Ref: 06 Guangzhou 32432

¶1. (C) SUMMARY: Migrant worker health and labor rights NGO leader Jing Xiang told Congenoffs on March 2 that his Guangzhou-based group and PAS small grant recipient helps workers obtain work-injury compensation and facilitates legal aid for them in addition to organizing seminars to increase their rights awareness. Jing's group, the Friends of Workers Service Center (FWSC), also investigates factories suspected of labor rights violations, primarily targeting companies that produce goods for overseas corporations. Factory bosses often have good relationships with local government officials, making such investigations problematic at best. Jing admitted his organization is monitored by Chinese authorities, and said he has been interviewed on numerous occasions by Chinese security services who were interested in updates on his activities and his relationship with the Consulate. Jing fears his group could be closed if it attracts too much attention from the press or the U.S. Government. Jing said that the local labor bureaus often know where unregistered factories are located but fail to take appropriate actions. Jing also criticized the ACFTU, saying that it does not fully protect workers' rights. END SUMMARY.

Catalyst for Establishing the NGO

¶2. (SBU) Jing told the officers that he originally came to South China to make money, but found that he couldn't make money unless he "exploited workers." Jing noted that labor conditions in Guangdong are worse than in his home province of Jiangsu. Jing initially worked with an existing NGO, the Migrant Workers Service Center, but because he felt its scope was too narrow, Jing decided to found his own NGO in January 2005 that would educate factory workers about their rights and provide them with legal assistance.

What FWSC Does

13. (U) FWSC focuses on serving factory workers in Guangdong and helps workers obtain work-injury compensation and facilitates legal aid for them in addition to organizing seminars to increase their rights awareness. FWSC used to hold these seminars on a weekly basis, but because of limited funding now holds them monthly. Jing proudly noted that international labor organizations, such as the U.S.-based NGO Labor Watch, decided to support his NGO after observing his seminars. FWSC initially held legal seminars in factories to educate and assist workers in obtaining compensation for injuries, but found that workers were reluctant to talk freely or felt pressured not to talk at all while in a workplace facility. As a result, FWSC established an independent facility where workers would go to talk freely without fear of pressure from their employers. Jing estimates that his NGO directly assists about 60 workers per month.

14. (C) FWSC also investigates factories suspected of labor rights violations and primarily targets companies that produce goods for overseas corporations like Wal-Mart because it believes the international companies will apply pressure on the companies to fix labor abuses. Jing explained that this was the most difficult part of his work because the factory bosses often had good relationships with local government officials. He cited, for example, a recent case where a factory (Kaishi Metal) allegedly guilty of labor rights violations had a delegate to the National People's Congress as its legal counsel.

15. (SBU) Jing also helps workers draft the numerous legal documents required to file a compensation claim, or

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provides "citizen" legal representation in courts. When asked how he finds out about potential rights violation incidents, Jing said that he learns about them by word of mouth as his staff visits hospitals, labor bureaus, and factory workers. Jing explained that approximately two thirds of the workers he helps must drop the cases mid-stream because companies know the workers do not have sufficient funds for legal expenses and deliberately try to string out expensive court proceedings to dissuade the workers. For these workers, Jing helps them obtain an out of court settlement. Jing mentioned one such case that settled out of court that week, where a migrant worker was owed RMB 10,000 (approximately USD 1,300) in back pay but instead chose to settle out of court for RMB 5,000 (approximately USD 650) to avoid a protracted, costly court battle.

16. (C) FWSC does not currently have any lawyers on its staff, nor is Jing a lawyer by training despite the NGO's focus on rights awareness. FWSC instead serves as an enabler that educates workers and then connects them with lawyers who can represent them in court. (Comment: FWSC's role as an enabler perhaps explains why it receives close scrutiny from the local government, detailed below in paragraph 7). FWSC previously employed a lawyer on its staff, Tang Jingling, but the lawyer was involved in a high-profile demonstration in Taishi in 2005 and FWSC decided it needed to distance itself from Tang.

FWSC's Operating Environment

17. (C) Jing's group is not formally registered as an NGO although since April 2005 it has been registered as a company with the Bureau of Industry and Commerce. Jing chose not to register as an NGO because he did not want to submit to partial control by a Chinese government sponsoring agency. (Note: Pressure has increased since 2005 in China to limit NGOs from registering as companies to evade tighter government control). He expressed

frustration with his NGO's status as a company rather than a registered NGO because it requires him to pay taxes and prevents him from carrying out fund raising activities in China. FWSC relies primarily on funding from U.S. small grant programs and international labor organizations. Jing expressed hope that he could use the company registration to his advantage and said he hoped to operate a for-profit unit that would help him cover expenses his NGO incurred. Jing admitted his organization is monitored by Chinese authorities, and said he had been interviewed on numerous occasions by Chinese security services who were interested in updates on his activities and his relationship with the Consulate.

¶ 8. (C) Jing said that media exposure for his group can be a mixed blessing. On the one hand, because of all the press coverage FWSC has received, he no longer has to find clients to help; most of the time, clients come to him. However, he feared his group would be closed if it attracted too much attention from the press or the U.S. Government.

Labor Bureaus Not Doing Enough?

¶ 9. (C) Jing said that the local labor bureaus need to step up actions against unregistered companies. Jing suggested that the labor bureaus know where many of these unregistered companies are located, but do nothing about them. Jing mentioned that his NGO, in conjunction with the Nanfang Daily newspaper, conducted a survey which found that many factories do not comply with minimum wage laws.

¶ 10. (SBU) A disturbing trend may emerge in claims litigation, Jing told the officers. A recent court decision may open the door to lower compensation amounts

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for employees of unregistered factories. Currently, employees of unregistered factories who file a claim can potentially receive more money as compensation than an employee of a registered factory. Jing said that a court recently decided that if a company has a registered factory somewhere in China, the employee in the illegal factory in another location can be treated as a "legal" employee for compensation purposes, effectively reducing the potential amount of compensation.

¶ 11. (C) Jing also criticized the ACFTU, saying that it does not fully protect workers' rights and noted that many workers had not even heard of the ACFTU or its mission. Jing explained that his NGO helps workers get compensation for their injuries. He does not receive payment for services rendered, but willingly accepts contributions from those he helps.

ROCK